

Exhibit A

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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:
UNITED STATES OF AMERICA : 17-MJ-8611 (PAE)
:
v. : 500 Pearl Street
: New York, New York,
CHEIKH GADIO, :
: November 18, 2017
Defendant. :
-----X

TRANSCRIPT OF CRIMINAL CAUSE FOR INITIAL APPEARANCE
AND BOND HEARING
BEFORE THE HONORABLE KEVIN NATHANIEL FOX
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

For the Government: DANIEL RICHENTHAL, ESQ.
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1 THE CLERK: United States v. Cheikh Gadio, Case No.
2 17-MJ-8611.

3 Counsel, please state your appearances.

4 MR. RICHENTHAL: Good afternoon, Your Honor. Daniel
5 Richenthal and Thomas McKay for the Government.

6 THE COURT: Good afternoon.

7 MR. RICHENTHAL: Good afternoon.

8 MR. BAUM: Good evening, Your Honor, or good
9 afternoon. Robert M. Baum on behalf of my client, Mr. Gadio,
10 and also present at counsel table, Lewis Camarro, who's an
11 attorney admitted to practice in the State of Maryland and the
12 District of Columbia. He is not admitted to practice in
13 federal court but I will be making all arguments today on
14 behalf of Mr. Gadio.

15 THE COURT: Good afternoon. Can I have the date and
16 time of arrest, please?

17 MR. RICHENTHAL: Mr. Gadio was arrested a little
18 after three p.m. yesterday afternoon, Your Honor.

19 THE COURT: Thank you. Mr. Gadio, the purpose of
20 the proceeding is to advise you of certain rights that you
21 have, to inform you of the charge made against you, to
22 consider whether counsel should be appointed for you and to
23 determine under what conditions if any you might be released.
24 Do you understand, sir?

25 THE DEFENDANT: Yes.

1 THE COURT: Would you move the microphone closer to
2 you, please, sir?

3 THE DEFENDANT: Yes.

4 THE COURT: You have a right to remain silent. Even
5 if you've made statements to authorities already you need not
6 make additional statements. Anything that you do say can be
7 used against you.

8 You have a right to be released either conditionally
9 or unconditionally pending trial unless I find that there are
10 no conditions that would reasonably assure your presence in
11 court and the safety of the community.

12 You have a right to be represented by counsel during
13 all court proceedings and during all questioning by
14 authorities. If you're not able to retain counsel the court
15 will appoint counsel to represent you.

16 Was a financial affidavit prepared by your client,
17 Mr. Baum?

18 MR. BAUM: No, it hasn't been, Your Honor, and I
19 will be representing Mr. Gadio for presentment purposes only.
20 His plan is to retain counsel following the presentment.

21 THE COURT: Very well.

22 MR. BAUM: But I would ask the court's permission to
23 maintain my representation until counsel is retained.

24 THE COURT: Very well. Sir, if you're not able to
25 retain counsel you should advise the court of that so that the

1 court is aware that Mr. Baum will continue to represent you.
2 Should you retain counsel Mr. Baum will no longer represent
3 you. He's appearing principally for today's proceeding only.

4 Mr. Baum, have you received a copy of the complaint?

5 MR. BAUM: I have, Your Honor, and it's been
6 discussed with Mr. Gadio. We waive its public reading.

7 THE COURT: Very well. Mr. Gadio, you have a right
8 to have a preliminary hearing held in connection with the
9 charge that is set forth in the complaint. At the hearing the
10 Government would have the burden of establishing that there's
11 probable cause to believe that a crime has been committed as
12 described in the complaint and that you committed it.

13 If probable cause is not established you'll be
14 released from the charge. If it is established the Government
15 will have the right to proceed to trial against you. If you
16 are in custody the hearing will be held within 14 days. If
17 you're not in custody the hearing will be held within 21 days.
18 No hearing will be held if before the date on which it is
19 scheduled you're either indicted by a grand jury or an
20 information is filed against you by the Government.

21 I'll shall address the date for a hearing after we
22 address the issue of bail.

23 Was Mr. Gadio made aware that a consulate
24 representative of his country could be notified of his
25 circumstance?

1 MR. RICHENTHAL: We had advised his counsel of that
2 fact. I don't know whether he's personally been advised of
3 that fact. Among the things I was going to do today is say on
4 the record we're happy to notify his consulate if he would
5 like. We were told by his counsel, I'm referring to Mr.
6 Camarro when I say that, that Mr. Gadio would actually like
7 that we not do that. But it remains an open offer and we're
8 happy to do it should he change his mind.

9 MR. BAUM: That's accurate, Judge. We're not
10 requesting consular notification.

11 THE COURT: All right. Let's turn to the issue of
12 bail. What is the Government's position?

13 MR. RICHENTHAL: The Government seeks detention.

14 THE COURT: Under what theory or theories?

15 MR. RICHENTHAL: Risk of flight.

16 THE COURT: Mr. Baum, what is your client's position
17 on bail?

18 MR. BAUM: Your Honor, we respectfully are going to
19 ask the court to adopt the recommendation of the Pretrial
20 Services agency with the following specifics. One, we're
21 asking for a \$100,000 personal recognizance bond to be co-
22 signed by three financially responsible persons and to be
23 secured by \$10,000 cash.

24 There's one exception to the other conditions set
25 forth by Pretrial Services. We're going to ask the court to

1 release Mr. Gadio if the court grants bail pending the
2 completion of the conditions and setting a date of one week
3 for the conditions to be made.

4 THE COURT: All right. Let me hear the Government
5 in connection with his application and I'll permit you an
6 opportunity to respond, Mr. Baum.

7 MR. BAUM: Thank you.

8 MR. RICHENTHAL: So, Your Honor, the recommendation
9 of Pretrial Services might make sense if it were based on an
10 accurate assessment of the facts but unfortunately it looks
11 like the defendant has made either material misstatements or
12 omissions in the pretrial report, two of which I was going to
13 comment on anyway that is not the misstatements or omissions
14 but the underlying facts. I want to start there though
15 because that matters.

16 So it is not the case in any way, shape or form that
17 the defendant returned to the United States to face these
18 charges. This is a sealed complaint sworn out less than 48
19 hours ago of which the defendant had no knowledge of any kind,
20 could not have had knowledge of any kind. The defendant did
21 not return to the United States to face these charges. If he
22 told the Pretrial Services officer that he lied. That's point
23 one.

24 Point two is if you read this report you'd be left
25 with the impression and reasonably so in light of how it's

1 written, and I'm not blaming Pretrial for this, that the
2 defendant basically resides in the United States. He just
3 travels for business. That is utterly and demonstrably false.
4 We're having this conversation on November 18, 2017. In this
5 year, 2017, Mr. Gadio has been in the United States a total of
6 13 days. In 2016 Mr. Gadio was in the United States for a
7 total in the entire year of 22 days. In 2015 Mr. Gadio was in
8 the United States for a total in the entire year of 13 days.

9 Mr. Gadio does not reside in the United States. He
10 owns a piece of property in the United States. It's not clear
11 anyone lives there that's related to Mr. Gadio but he
12 certainly does not. His wife does not. His children do not.
13 In fact, all of those people, his wife and children, they also
14 reside outside the United States. Mr. Gadio resides in
15 Senegal and that makes sense because Mr. Gadio works for the
16 government of Senegal. He has no connection of any kind to
17 this country other than to use its banking system and its
18 corporate system to engage in the very crimes with which he's
19 charged.

20 I was going to begin there anyway because I think it
21 sets up the risk of flight but it certainly has given us even
22 greater concern that he appears to have misrepresented and
23 omitted material facts to the Pretrial Services officer.

24 So let me now talk about the actual facts. The
25 strength of this case I think is apparent in the length and

1 detail of the complaint. The complaint is 54 pages. It
2 excerpts email after email in which Mr. Gadio, his adult son
3 and others are quite explicit about what's happening. They're
4 going to engage in a bribery scheme and they actually do.

5 Those emails are corroborated by bank records.
6 They're corroborated by other kinds of financial records.
7 They're corroborated by search warrant after search warrant in
8 co-conspirator's email accounts and it makes sense therefore
9 that when Mr. Gadio chose after Miranda on video to make a
10 post arrest statement he not only admitted some of the central
11 facts in this case, he provided details about them having not
12 seen the complaint because it's what happened.

13 Now, Mr. Gadio, as we understand it, is denying that
14 he committed a crime. There's a process for that. But the
15 core facts here are reasonably not subject to dispute at all.
16 So that's the strength of the case.

17 In terms of the seriousness of the charges, again I
18 think it's inherent on their face this is a complaint in which
19 Mr. Gadio is charged with multiple serious crimes. We've done
20 a rough back of the envelope analysis of what the sentencing
21 guidelines, admittedly only advisory, would look like. Our
22 analysis is they exceed ten years in total in light of the
23 nature of the offense, the amount of money involved and the
24 circumstances of the offense. But even if they only involved
25 say half that, five years, that's very significant. Very

1 significant.

2 So it's an extremely strong case. It's a case with
3 extremely serious potential consequences and the risk of
4 flight is about as extreme perhaps as this court can see. We
5 have a defendant who doesn't reside here and hasn't in years.

6 We have a defendant whose entire family does not
7 reside here. We have a defendant who is a member of a foreign
8 government. We have a defendant who not just is a member of
9 the foreign government but the government at issue, Senegal,
10 is a country with which we do not have an extradition treaty.
11 If Mr. Gadio were to return to Senegal where he claims to be a
12 member of its government, and indeed it appears that he is, he
13 will never come back.

14 Let me also note the other countries at issue in
15 this complaint, Chad and Uganda, principally Chad with respect
16 to Mr. Gadio, those countries are also countries with which we
17 do not have extradition. So if Mr. Gadio were to make it to
18 where he would like to go, has his home, has connections, has
19 financial wherewithal, he'll never come back.

20 So the question is then what will keep him here.
21 The answer in our view is nothing. There's nothing that could
22 possibly keep him here because his entire life is abroad. His
23 professional life, his personal life, his finances. It's all
24 abroad.

25 We also have real concern that the finances

1 described here are not accurate. In the complaint itself it
2 describes in detail how Mr. Gadio had \$400,000 wired to a bank
3 account in the United Arab Emirates. Now, the Pretrial
4 Services report says that Mr. Gadio indicated that that bank
5 account is closed. We don't know that that's true. There's
6 no particular reason to believe it's true. That's a lot of
7 money. By the way, after Mr. Gadio did that he then routed
8 money elsewhere including for use of his children who again
9 all reside abroad in various countries, not even in one
10 country. We don't have access to information of where all of
11 his money is, and it's reasonably apparent it can't possibly
12 be limited to what he says here.

13 I am not saying that because of the complaint. I'm
14 saying that Mr. Gadio travels internationally for business as
15 a consultant all the time. When he was arrested he had four
16 cell phones with him, 16 SIM cards, meaning what one would use
17 to operate a cell phone in different countries, and seven
18 flash drives. Now, one can have those things lawfully. I'm
19 not suggesting otherwise. But a man who has four cell phones,
20 16 flash -- 16 SIM cards and seven flash drives who's an
21 international business consultant, he's not a man who earns
22 \$26,000 a year. It's literally not possible to fly around the
23 world on that salary, never mind as regularly as Mr. Gadio
24 does.

25 The reality is we know he has wherewithal. We just

1 can't show Your Honor the records because they are in Dubai
2 and in other places. We're trying but what's before this
3 court should give this court great pause on the assertions
4 that this is a man who's indigent and can't make his way back
5 to countries.

6 Even if he were indigent look at his connections.
7 He's a member of his government, a government that again does
8 not have an extradition treaty with this country. I've
9 confirmed with the Office of International Affairs that we
10 cannot extradite Mr. Gadio if he returns to Senegal. We
11 cannot extradite Mr. Gadio if he were to make it to Chad.

12 Even if somehow he would be on the outs with his own
13 country, and he isn't -- he's a current member of the
14 government, not just a [inaudible] member, he has very tight
15 connections with Chad, the president of Chad himself, and if
16 he makes it to Chad we also cannot get him back. The people
17 in those two countries, particularly Chad, have every
18 incentive to help Mr. Gadio. This is an ongoing complex
19 lengthy international investigation.

20 There are steps being undertaken as I speak that I
21 can't comment about in court. I expect there will be other
22 steps undertaken in future days, weeks and months. People do
23 not want to uncover what Mr. Gadio and his co-conspirators do.
24 They would like the 54 pages to not be 554 pages.

25 In sum, this is a man who has no connection to the

1 United States of any kind, has meaningful financial
2 wherewithal to fly around the world and does it regularly.
3 He's connected at a high level to a foreign government that we
4 don't have an extradition treaty with and another foreign
5 government we don't have an extradition treaty with. His
6 entire family lives abroad. He's facing incredibly serious
7 charges. There is no reason he would stay here. And even if
8 the court weren't moved by that the fact that he told the
9 Pretrial Services officer he returned to face those charges is
10 a demonstrable misstatement and he could not have possibly
11 meant it other than to mislead this court. The only
12 appropriate outcome in our judgment is detention.

13 THE COURT: Thank you. Mr. Baum.

14 MR. BAUM: Judge, there's ample basis to believe
15 that Mr. Gadio is not a risk of flight and that conditions can
16 be set which would address any concerns about that.

17 Let me start off with the allegations of
18 misrepresentation and misstatement. I'm not sure that what
19 Mr. Gadio said was misinterpreted or interpreted in a way
20 that's reflected in the Pretrial Services report. But here is
21 the fact. In October of 2017 Mr. Gadio was in the United
22 States, was given a letter by Homeland Security asking him to
23 return to the United States for a hearing on November 17th.
24 Admittedly not saying face charges but asking him to return
25 for a hearing. On November 17th as requested Mr. Gadio walked

1 into the Offices of Homeland Security at nine a.m. in the
2 morning. He was told come back 2:00. He came back at 2:00
3 and was arrested.

4 Did he return for the charges? No. But according
5 to Mr. Gadio he never said he returned to the charges. He
6 said to Pretrial that he was given a letter advising him to
7 return to the United States on a specific day for something
8 which he was not aware of. He could make guesses as to what
9 it was about. But he returned voluntarily at his own expense
10 paying whatever it cost to return and then after being told by
11 Homeland Security at nine a.m. we want you to come back at two
12 somebody might have suspected somebody who wanted to flee
13 might have suspected something devious was going to happen to
14 them or something suspicious and would have fled. Not Mr.
15 Gadio. At 2:00 when he was told he walks back into Homeland
16 Security and then he gets arrested. That's the facts about
17 him coming back to see Homeland Security. He never
18 misrepresented that and that is an important fact for the
19 court to know.

20 What other facts are important? The Government
21 keeps saying he has no ties to this country, he would flee in
22 a second. Well, Mr. Gadio is a legal permanent resident and
23 has been a legal permanent resident for 17 years. Mr. Gadio
24 is married, has no prior record and what's important about
25 that is I will add in a moment he has a distinguished history

1 of service not only to his own community but to governments
2 all across Africa, to the United States -- and I'll explain in
3 what manner -- and has never ever been accused of corruption
4 or any act of illegal nature during that entire period. He is
5 a man who has Ph.D. degrees, who has taught across the world
6 and I'm going to get into those details.

7 But to say that he would flee in a minute and has no
8 ties to this country is just not accurately representing the
9 facts. So he's married. He has three children. He has four
10 grandchildren and he has a wife who owns a home in Maryland.
11 If he's released on bail he will live at the home in Maryland
12 and he will not leave the country. He will not leave the
13 country because the court will direct him not to leave the
14 country and as you're about to learn this is a man of great
15 honor, responsibility and integrity. He will not leave the
16 country. He will report as required. Two of his children I
17 might add are U.S. citizens.

18 Now to get to his background. He was born in
19 Senegal. That is true. He is a citizen of Senegal. That is
20 true. But he was ultimately educated after receiving an
21 undergraduate degree in Paris at the Sorbonne. He was
22 educated and got a Ph.D. degree from Ohio State University.
23 His wife also attended Ohio State University. This was in
24 1988. A long time ago. He received -- he received his Ph.D.
25 in 1994 and he was a full bright scholarship recipient when he

1 got his Ph.D. from Ohio State University.

2 After that he taught for many years. He taught --
3 prior to his Ph.D. he actually taught in Senegal and then came
4 to the United States for his Ph.D. He -- after that he also
5 was in Vermont. He founded the School for International
6 Training. He was a director for Africa. He -- it was funded
7 by the United States Government. It's called SIT, acronym for
8 the School for International Training, and he was there for 11
9 years in Vermont working at a school. Again, the Government
10 represents no ties.

11 So here we have him attending Ohio State University
12 for years getting a Ph.D. We have him working in Vermont at a
13 school for 11 years. Subsequent to that, Judge, he was in
14 2000 invited to Senegal to become the foreign minister --
15 excuse me. Before he went to Senegal he worked for the World
16 Bank in Washington, D.C., another employment role in the
17 United States. He was director of World Links for Africa at
18 the World Bank in Washington, D.C.

19 The Government for some reason either didn't
20 investigate his background when he said he has never really
21 spent time in the United States or they left it out for some
22 reason but these are years and years, decades of time in the
23 United States.

24 In 2000 he was invited to become the foreign
25 minister, which is the equivalent of secretary of state for

1 Senegal. He accepted that position and he was in that
2 position from 2000 to 2009. During that position as foreign
3 minister for Senegal he was involved in major negotiations,
4 peace negotiations between various countries of Africa. For
5 example, he brokered the peace deal in Madagascar working with
6 Condoleezza Rice. He later worked with Colin Powell in
7 reference to attempts, attempts to have a nuclear treaty with
8 Lybia. He later worked in 2008 on a peace deal between Chad
9 and Sudan which unfortunately broke down after he left as
10 prime minister.

11 But this is a man with strong ties to this country,
12 with decades of service to government, to education and
13 spending time in this country. This is a man whose wife has a
14 residence in this country, legal permanent resident in this
15 country.

16 Then the Government goes on to say they don't
17 believe his finances. They don't tell you anything to say
18 it's not true. They just say we don't believe it. Why don't
19 they believe it? Because they say he flies all over the
20 world. He told Pretrial a fact that his various positions pay
21 him a salary but they pay for his travel. That's not part of
22 his salary. So he doesn't pay for his salary to travel -- he
23 doesn't pay out of his salary to travel but governments paid
24 for it over the years and he did travel. But for the
25 Government to say that -- and this is what they said. This is

1 a man who is not indigent. When did anyone say he was
2 indigent? I mean they have taken facts and twisted them in a
3 manner to fulfill their argument that he has no ties.

4 In sum, Judge, clearly the risk of flight is
5 mitigated by his background, his history, his work, his
6 commitment to world peace, to everything he's done in his
7 life.

8 Again, as I said before, think of all the things
9 that I've outlined to you that he has done including I might
10 add that while he was the foreign minister I left out this
11 fact that he was part of a peace deal in Mauritania to end the
12 war there and that was six months in negotiation. But in all
13 those years, nine years as foreign minister there was never an
14 allegation of corruption, of taking bribes, of kickbacks or
15 anything else.

16 Now, I know the Government always likes to believe
17 that if they argue there's a strong case someone should not
18 get bail but the Bail Reform Act does not consider that only
19 innocent people get bail. Even if -- taking the Government's
20 charges at face value the Bail Reform Act permits bail for
21 those in which the evidence might be overwhelming and the
22 Government was very happy to point out that this is a 55 page
23 complaint. I spent a lot of time reading it and most of what
24 I read had nothing to do with Mr. Gadio. It had to do with
25 the co-defendant's actions who induced Mr. Gadio according to

1 the complaint to join him in seeking a relationship with
2 Senegal but most of it was about the co-defendant's ties to
3 China, his role for energy, the things that he asked Mr. Gadio
4 to do, the emails that he sent to Mr. Gadio. So yes, the
5 charges are serious. We don't deny that.

6 But you have a man with a family who's a legal
7 permanent resident, a distinguished career and life as a
8 teacher and diplomat who will live in Maryland, who will put
9 up a substantial bond ultimately to secure his release of
10 \$100,000 and \$10,000 cash and three co-signers.

11 You have a brother-in-law who lives in the United
12 States who is willing to sign his bond who's been an attorney
13 for 15 years. That is -- that is a substantial basis to
14 believe that he is not going to be fleeing this country.

15 So for all those reasons -- may I have just one
16 moment?

17 THE COURT: Yes.

18 [Pause in proceedings.]

19 MR. BAUM: I was just reminded that while he was
20 foreign minister in Senegal he worked on an agreement with
21 Hillary Clinton who on behalf of the United States sent
22 millions and millions of dollars to Senegal for infrastructure
23 and improvements. \$540 million is my understanding. And none
24 of that money disappeared. There is no allegation that there
25 was anything untoward with any of that money and he worked

1 with Mrs. Clinton on behalf of Senegal in order to obtain that
2 money and use the money for improvements in Senegal.

3 So for all these reasons, Judge, we believe that a
4 bond is warranted. We believe that Pretrial's recommendation
5 as to the general circumstances of the bond should be adopted
6 with the one exception. We believe that based on Mr. Gadio's
7 background and circumstances that he be given just a few days
8 until Friday perhaps to meet the conditions but he'd be
9 released tonight.

10 MR. RICHENTHAL: Your Honor, I'd like to respond
11 briefly to a few points. There's no dispute Mr. Gadio has a
12 long and distinguished career. Unfortunately a lot of people
13 with long and distinguished careers decide to trade on their
14 contacts for money. That's what happened here. That's what
15 facilitated the crime. It's not a reason for bail. It's what
16 made the crime possible.

17 Mr. Baum is an extremely good lawyer and he's an
18 accurate one with his facts. So when he said that Mr. Gadio's
19 wife has a residence in Maryland, that's true. She owns
20 property in Maryland. She doesn't live there. She lives in
21 Equatorial Guinea. It's also true Mr. Gadio has children who
22 have various statuses with the United States. They don't live
23 here either. Two of them live in Senegal. One of them lives
24 in the United Kingdom. They have no relationship with the
25 United States besides the fact they can lawfully come here but

1 that doesn't give him a reason to stay here. They're not
2 here.

3 Now, in addition, I only got the Pretrial Services
4 report literally as Your Honor was walking in and so I
5 actually didn't notice something that gives us even greater
6 concern that's also omitted. The complaint talks about the
7 Gadio Firm. That's a defined term, Gadio Firm. That's the
8 firm through which the defendant laundered his payment,
9 \$400,000 for bribing the president of Chad. In the employment
10 history section of the Pretrial Services report on Pages 2 to
11 3 it's not mentioned. It's literally like he never had that
12 company at all. That's intentional. That firm is
13 incorporated in Washington, D.C. It has bank accounts abroad.
14 The evidence of that is all over the complaint. Reading this
15 one would think it never existed ever.

16 I submit the only reasonable interpretation of that
17 is Mr. Gadio doesn't want to admit his association with that
18 firm although it is not reasonably subject to dispute. He's
19 the founder of it. The bank accounts are in his name. The
20 \$400,000 he got as his fee that's to that firm. It's to a
21 bank account of the United Arab Emirates through New York, New
22 York in the name of that firm which does not appear here nor
23 does that \$400,000 payment.

24 Now, Mr. Baum also talked about how this complaint
25 is largely about other people. I don't think that's true.

1 Your Honor signed it. So I'm not going to go over it. Your
2 Honor is familiar with it but I would direct you to among
3 other places Pages 24 to 25 which has a lengthy recitation of
4 emails that Mr. Gadio wrote explicitly talking -- and I'm
5 going to quote one of them right now, about how we should
6 "reward him with a nice financial package as an entry ticket
7 in the Chadian oil market and later gas market and other key
8 business opportunities."

9 Mr. Gadio wrote that. That's referring to a \$2
10 million bribe that Mr. Gadio later wrote about how he should
11 get a fee for and he negotiated it and he got \$400,000 to the
12 firm that he omitted from the Pretrial Services report.
13 That's what happened here.

14 So I go back again. This man has no ties to the
15 United States. Mr. Baum is right, he did. The fact that two
16 decades ago he worked in Vermont does not in our judgment
17 assure his appearance in court two decades later. The fact
18 that his wife owns property here she doesn't live in does not
19 in our judgment reasonably assure his appearance in court. In
20 truth, nothing does. He has money abroad, contacts abroad.
21 He works for a government that will not extradite him. He has
22 connections to the top of another government that will not
23 extradite him. He has multiple cell phones and SIM cards
24 because he's an international business consultant also not on
25 here. That consultancy is that firm that he omitted. He has

1 no reason to stay. Literally no reason to stay.

2 I suppose the only reason might be if they post his
3 wife's property he might lose that property but that's not
4 sufficient reason to stay in light of everything else I'm
5 talking about. His whole family, his professional life, his
6 assets, they are all outside this country. A reasonable
7 man -- and Mr. Gadio is a well educated man -- would assume
8 that property is worth giving up because if you can make it to
9 any of these countries you'll never have to face these
10 charges, you'll never have to answer for why you chose to
11 reward the president of Chad with \$2 million. Detention is
12 the only appropriate option. His distinguished career is not
13 a reason to treat him worse or better. It's just who he is.

14 His former ties to the United States are not a
15 reason to treat him worse or better. It's who he is. We're
16 here November 17th, excuse me -- November 18, 2017. Today he
17 has no ties other than property that no one lives in that he's
18 associated with. Today all of his ties are abroad. Every
19 fiber of his being will seek to go abroad.

20 He had three passports with him. They're all in his
21 name but that just demonstrates how connected he is. One was
22 a diplomatic passport, one was a non diplomatic passport.
23 Side note, the diplomatic passport does not protect him
24 against these charges both because he's a lawful permanent
25 resident of the United States and because the charges do not

1 rest on anything he did in his capacity as a member of the
2 government of Senegal. The point I'm making is not fact. The
3 point I'm making is he has the wherewithal, knowledge and
4 contacts to flee. He has an incredible incentive to do so and
5 there is a possibility that can be measured, it's zero of ever
6 getting him back.

7 MR. BAUM: Just finally, Judge, very briefly. The
8 passports as the Government admits are all legal. There's
9 nothing illegal about it. They should draw -- the court
10 should draw no inference from them that they make it more
11 likely he's going to flee because he's going to surrender
12 every passport he has.

13 His wife, she's a citizen. She works for the UN.
14 The UN sent her abroad. In all likelihood if he's released
15 and living at his wife's home in Maryland in all likelihood,
16 and I can't guarantee it because I haven't spoken to his wife
17 but my understanding is in all likelihood she will return to
18 the United States and remain here during the pendency of this
19 case. She might even be a co-signer but that's neither here
20 nor there.

21 He will have three co-signers and he will make the
22 bail and we're just asking that you release him on his own
23 signature tonight.

24 MR. RICHENTHAL: I just want to respond to one
25 point. I don't want to be ping ponging. It's been a long

1 day. My point about the passports to be granular about it is
2 the government of Senegal would reissue a passport to him in a
3 second. We can't stop him from doing so. That's the problem.
4 There are many problems here but that's the point I'm making.
5 He's a member of a foreign government with no extradition who
6 would gladly give him another passport. We can't stop Senegal
7 from doing that. We have no lawful ability to do that.

8 He's connected to highest levels of multiple
9 governments. That's the point I'm making about the passports.
10 The fact that he has three passports lawfully is true to our
11 knowledge but it's what it signals about his connections, it's
12 what should give this court pause about his ability to flee.
13 That's why I made that point.

14 In light of the constellation of factors here
15 there's just no reasonable assurance he can possibly return to
16 court.

17 THE COURT: Did I understand correctly that Mr.
18 Gadio may post arrest statements that were videotaped?

19 MR. RICHENTHAL: Yes, Your Honor. Mr. Gadio was
20 advised of his Miranda rights consistent with Department of
21 Justice policy on video. He waived those rights. Let me
22 pause and note I have not personally reviewed the video. So
23 I'm making these representations based on my description of
24 what occurred. Excuse me. Description to me of what
25 occurred.

1 He spoke for a meaningful period of time, hours
2 about the facts in the complaint during which I understand in
3 sum he admitted the material facts, the gift or payment to the
4 president of Chad for example.

5 My understanding, and I want to be very clear, it's
6 he denied having committed a crime. I'm not suggesting
7 otherwise but he admitted facts that the law recognizes as
8 criminal. He added some details to those facts that to be
9 honest weren't even in the complaint that we weren't even
10 aware of. That is a fact that he's going to have to wrestle
11 with throughout this proceeding. I don't think in and of
12 itself is dispositive and that's why I don't want to suggest
13 that it is but it is certainly a fact that gives us greater
14 assurance we got it right in the complaint and it's something
15 he's going to have to wrestle with as this proceeding
16 continues.

17 Let me also note not in the complaint is another
18 fact which he admitted also which is that he didn't report the
19 \$400,000 to the Internal Revenue Service. We already knew
20 that. It's not charged but he admitted that. That's a
21 problem independent of these charges. He did file tax returns
22 and he omitted that income. We think he did it both to avoid
23 taxes and because he didn't want anyone to know what it was
24 for because it's a lot of money, \$400,000 wire or two \$200,000
25 wires especially when it's being sent through New York to

1 Dubai for a man that lives in Senegal. It looks suspicious on
2 its face. We think that's why he omitted it but regardless of
3 the reason why the truth is he omitted it. It's not on his
4 tax returns and that's another problem.

5 It's also an additional indication he is running
6 away from what I'm referring to as the Gadio Firm which he
7 omitted in the description of his employment because that is a
8 serious problem. That's the firm that the proceeds were
9 laundered through that he founded and ran and it's nowhere in
10 this Pretrial Services report.

11 MR. BAUM: Judge, I just have to add something to
12 what he just said. Judge, this issue about not admitting the
13 \$400,000, I mean the Government is misstating the tax laws.
14 Assuming he received \$400,000 and he receives it in a foreign
15 country you pay tax to the foreign country. You don't pay tax
16 to the United States. That's a fact.

17 MR. RICHENTHAL: That's not the law, Your Honor.

18 MR. BAUM: I believe it is. You have to pay tax in
19 the foreign country and if you pay the tax in the foreign
20 country you don't have to pay it. That's -- assuming that
21 fact that he received the \$400,000 without agreeing that he
22 did or did not that's an issue but because we're debating the
23 tax laws here I don't think that the court should pay great
24 deference to that.

25 The other thing I know the Government misstated this

1 and I'm sure that they didn't mean to do this when they say
2 that we have -- he said in the confession statement that they
3 described that the \$2 million was given to Senegal. The
4 Government knows the \$2 million was never given to Senegal.

5 MR. RICHENTHAL: If I said Senegal I apologize. I
6 meant the president of Chad which is the allegation in the
7 complaint.

8 With respect to taxes though, let's just be very
9 clear. The law is income must be reported. Whether it
10 becomes taxed, that is whether it leads to being taxed is an
11 entirely distinct question. My point is he omitted it
12 entirely. It literally doesn't show up in his returns. Just
13 like he omitted his founding and operation of an international
14 consulting firm from his employment history.

15 MR. BAUM: Let me be clear. The \$2 million was not
16 paid at all. The money was never paid. So when the
17 Government says that I think they're mistaken. I think they
18 know that's not true.

19 MR. RICHENTHAL: Your Honor, Mr. Gadio on video said
20 to the contrary but even if Your Honor wants to assume that
21 didn't happen we think there's more than a sufficient basis
22 here to detain Mr. Gadio.

23 THE COURT: What information, if any, does the
24 Government have about the defendant's position that he was
25 summoned to the United States by the Department of Homeland

1 Security?

2 MR. RICHENTHAL: I am familiar with what Mr. Gadio
3 is referring to. It's not quite as Mr. Baum described it
4 although I think it's largely in accord. The Department of
5 Homeland Security gave a form, a standard form to Mr. Gadio
6 upon his departure from the United States in October of this
7 year requesting that he return to the United States to be
8 interviewed in connection with his immigration status. This
9 is not unusual as the court is no doubt aware for people
10 essentially to have to check in with the immigration
11 authorities from time to time, particularly a man who doesn't
12 reside in this country. So he was asked to return to be
13 interviewed in connection with his green card to use the
14 colloquial term, and he did.

15 Nothing about that is unusual as a general matter.
16 Nothing about that is unusual as a particular matter, meaning
17 the form was a standard form. The language was standard
18 language. He was requested to come to the actual place he
19 would otherwise come to. In other words, there's nothing
20 about that that would lead him to have the remotest hint that
21 he was under a criminal investigation. There's literally
22 nothing atypical. Had he shown it to an immigration lawyer
23 they would say that's the normal form. I don't know whether
24 he did or did not. I'm not privy to those discussions. The
25 point I'm making is there's nothing about that that in our

1 judgment weighs one way or another. It has nothing to do with
2 this case. It's the reason he came here this time although we
3 understand he also may have had business here. He may have
4 been going to Washington, D.C. but it is a reason he came here
5 this time. But it doesn't say anything about his belief or
6 lack thereof that he was under criminal investigation. This
7 was an extremely sensitive, for obvious reasons, long term
8 entirely covert investigation.

9 The only moment anyone would have had a hint of
10 anything was when Mr. Gadio was arrested. He was the first
11 person outside the investigative team to have any sense that
12 he was under investigation and that sense came when he was
13 arrested.

14 MR. BAUM: Judge, just -- I can't resist this.
15 Let's be realistic here. He got the letter to compel him to
16 come back. Compel is the wrong word. To make him come back
17 so he could be arrested. Homeland Security didn't give him
18 that letter telling him come back November 17th and then when
19 he came back all of a sudden FBI agents came to Homeland
20 Security and arrested him.

21 The plan was to give him the letter to tell him to
22 come back November 17th so he could be -- it was a rouse. It
23 was a rouse used by the Government with Homeland Security to
24 make him come back. Being that as it may, the fact is as I
25 said to you he was told come for a hearing November 17th. He

1 walks in November 17th and then told to come back later that
2 day.

3 Now, if someone thought they had done anything wrong
4 they might be suspicious and they might not come back but he
5 did and that's a fact.

6 MR. RICHENTHAL: Your Honor, I'm not going to
7 comment on whether it was a rouse or not but let me just make
8 a fundamental point. The whole point of a rouse if this was
9 one is so the person doesn't know what's going on. So that
10 doesn't militate in favor of bail. Just to be clear, I don't
11 think it militates in favor of detention either. It's just a
12 fact. He came here for reason A and unbeknownst to him he had
13 been under criminal investigation and he was arrested. I
14 don't think it militates in favor of either side. I just
15 don't think it's a fact of relevance here.

16 And my colleague Mr. McKay just reminded me of
17 something so I'll just briefly note it. In addition, there
18 were four cell phones, 16 SIM cards and seven flash drives.
19 Mr. Gadio had a checkbook when he was arrested in the name of
20 the international consulting firm that he founded and
21 operated, the very one that he omits from his Pretrial
22 Services report.

23 [Pause in proceedings.]

24 THE COURT: I wanted also some clarity about a
25 reference to the Maryland home that you say Mr. Gadio's spouse

1 owns. Is it the Government's contention that if Mr. Gadio
2 were to be at liberty he could not live in that home because
3 someone else is living there?

4 MR. RICHENTHAL: I don't know standing here this
5 evening who is living there, Your Honor. I just know that
6 neither Mr. Gadio nor any member of his family is living
7 there. So the point I was making is that fact just means he
8 owns an asset in the United States. I don't even know the
9 value of that asset but it certainly in our judgment does not
10 outweigh everything else I've said but to put a fine point on
11 it I don't know if anyone else is living there. That's not a
12 home we searched. I just don't have access to that
13 information standing here this evening.

14 MR. BAUM: I can tell you no one is living there,
15 Judge. It belongs to the family. There's no outstanding
16 mortgage on it.

17 THE COURT: When an application is made that a
18 person be detained without bail pending the disposition of a
19 criminal offense, 18 U.S.C. Section 3142 requires that the
20 court consider several factors. The nature of the charged
21 offense is to be considered, the strength of the evidence
22 against the accused be considered, the background of the
23 accused, his or her ties to the community, family ties,
24 employment history if any, prior criminal history if any,
25 whether at the time of the charged offense the accused is

1 under the supervision of a probation or parole entity is to be
2 considered.

3 In the instant case the accused is a permanent
4 resident of the United States. He's a citizen of Senegal.
5 The information proffered during this proceeding and
6 information in the Pretrial Services report indicates that he
7 travels and lives in Senegal.

8 His wife owns property in the State of Maryland
9 where it's proffered that Mr. Gadio can reside when he's in
10 the United States. He has no prior criminal history. His
11 family ties to his spouse is indicated in the Pretrial
12 Services report. He also has children. His children live
13 abroad according to the Pretrial Services report and his wife
14 is working abroad according to the Pretrial Services report.

15 There is evidence proffered that during his arrest
16 Mr. Gadio made inculpatory statements to law enforcement
17 representatives and the statements were recorded in video
18 format.

19 The Pretrial Services report and the information
20 proffered to me indicates that Mr. Gadio is an official of his
21 native country, Senegal, holds a government position with that
22 country.

23 The Government argues that Mr. Gadio omitted to
24 provide certain information about his business background to
25 the Pretrial Services Office and so that omitted information

1 is indicative of an attempt by him to mask certain information
2 about himself that is pertinent the Government argues to the
3 charge made against him through the complaint.

4 It is proffered that Mr. Gadio was directed by the
5 Department of Homeland Security to come to the United States
6 for an appointment on the 17th day of November 2017 and he
7 complied with that directive and returned to the United
8 States. It is proffered that that was a standard course of
9 action by the Department of Homeland Security and that he was
10 given a standard letter to -- with reference to his status as
11 a lawful permanent resident of the United States. That is
12 being a permanent lawful resident of the United States, a
13 powerful tie to the United States.

14 The Pretrial Services Office has recommended that
15 there are conditions that could be fashioned to permit Mr.
16 Gadio to be at liberty while the criminal action is pending.
17 His counsel has endorsed that recommendation and also
18 recommended certain conditions in particular that could be
19 fashioned to permit Mr. Gadio to be at liberty.

20 Based on all the information that has been provided
21 to me during this proceeding and the arguments urged for and
22 against the Government's application that Mr. Gadio be
23 detained without bail I am not persuaded that there are no
24 conditions that could be fashioned to permit him to be at
25 liberty but I do not agree that the proposal by his counsel is

1 adequate to insure that he could be at liberty and returned to
2 court when directed to do so.

3 [Pause in proceedings.]

4 THE COURT: Following are bail conditions for Mr.
5 Gadio. \$1 million personal recognizance bond. The bond is to
6 be co-signed by four financially responsible persons. The
7 bond is to be secured by \$250,000 cash or property. His
8 travel is restricted to the Southern and Eastern Districts of
9 New York and the District of Maryland. He must surrender all
10 travel documents he may possess and not seek or obtain any new
11 or replacement travel documents while the criminal action is
12 pending. He's subject to Pretrial supervision at the level
13 determined appropriate by the Pretrial Services Office, be
14 subject to home incarceration with electronic monitoring. He
15 will be detained until all of the conditions are satisfied.

16 Sir, if you satisfy the bail conditions and are at
17 liberty you must appear in court whenever you are directed to
18 do so. If you fail to do so you and any co-signers on your
19 bond will be liable to the Government for the full amount of
20 the bond. Any cash or property submitted to support the bond
21 will be forfeited to the Government. A warrant may issue for
22 your arrest and you may expose yourself to a new charge in
23 connection with your failure to appear in court which would
24 have a penalty independent of any penalty that might be
25 imposed upon you should you be found guilty of the offense

1 that is outlined in the complaint.

2 Do you understand, sir?

3 THE DEFENDANT: Yes.

4 THE COURT: What date would you like the preliminary
5 hearing date, Mr. Baum?

6 MR. BAUM: The thirtieth day, Judge.

7 THE COURT: December 18, 2017 will be the
8 preliminary hearing date.

9 Is there anything else that we need to address?

10 MR. RICHENTHAL: No, Your Honor.

11 THE COURT: Anything else on behalf of --

12 MR. BAUM: I'm sorry, Judge. No, nothing else.

13 Thank you.

14 THE COURT: Thank you.

15 [Off the record.]

16 THE COURT: We're back on the record.

17 [Pause in proceedings.]

18 THE COURT: All right, Mr. Baum.

19 MR. BAUM: Judge, I apologize. There's a medical
20 issue that we ask that you endorse medical treatment. He's
21 being treated for diabetes and high blood pressure and he
22 received two -- he receives two medications for that. One is
23 Metformin for diabetes and Hyzaar, H-Y-Z-A-A-R for high blood
24 pressure.

25 THE COURT: I'll prepare a medical order.

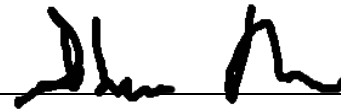
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MR. BAUM: Thank you, Judge.

THE COURT: You're welcome.

* * * * *

1 I certify that the foregoing is a court transcript from
2 an electronic sound recording of the proceedings in the above-
3 entitled matter.

4 
5

6 Shari Riemer, CET-805

7 Dated: November 20, 2017
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